

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BEE, DENNING, INC.,
Plaintiff,
v.
CAPITAL ALLIANCE GROUP,
Defendant.

Case No.: 13-CV-2654-BAS (WVG)

**ORDER RESCHEDULING
MANDATORY SETTLEMENT
CONFERENCE**

The Mandatory Settlement Conference set for **May 24, 2016**, at **9:00 a.m.**, is VACATED and RESET for **May 26, 2016**, at **9:00 a.m.**, in the chambers of Magistrate Judge William V. Gallo. Counsel shall submit settlement statements **directly to chambers** no later than **May 19, 2016**. Each party's settlement statement shall set forth the party's statement of the case, identify controlling legal issues, concisely set out issues of liability and damages, and shall set forth the party's settlement position, including the last offer or demand made by that party, and a separate statement of the offer or demand the party is prepared to make at the settlement conference. **Settlement conference briefs shall not be**

1 **filed with the Clerk of the Court, but may be served on opposing counsel at the party's**
 2 **discretion. Settlement conference briefs shall comply with the undersigned's**
 3 **Chambers Rules.** The parties shall meet and confer in good faith prior to the Mandatory
 4 Settlement Conference, and verify that they have done so in their respective Mandatory
 5 Settlement Conference statements, outlining the substance of their discussions and
 6 negotiations.

7 Pursuant to Federal Rule of Civil Procedure 16 and Local Civil Rule 16.3, all named
 8 Plaintiffs, named Defendants, claims adjusters for insured defendants, and if a named
 9 Plaintiff or Defendant is a corporation, partnership, or other entity, a representative of that
 10 entity, with full and unlimited authority^{1/} to negotiate and enter into a binding settlement,
 11 as well as the principal attorney(s) responsible for the litigation, must be present and must
 12 be prepared to discuss in good faith, the facts of the case, the law that governs the legal
 13 issues in the case, and to resolve the case at the Settlement Conference. Sanctions may
 14 issue against a party and/or attorney who does not proceed as noted above. Retained
 15 outside corporate counsel shall not appear on behalf of a corporation as the party who has
 16 the authority to negotiate and enter into a settlement. For good cause, and on ex parte
 17 application at least one week before the scheduled settlement conference, Magistrate Judge
 18 Gallo may excuse a party or representative from personal attendance provided such party

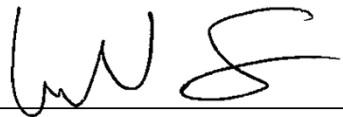
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 20 ^{1/} "Full authority to settle" means that the individuals at the settlement conference must
 21 be authorized to fully explore settlement options and to agree at that time to any settlement
 22 terms acceptable to the parties. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d
 23 648 (7th Cir. 1989). The person needs to have "unfettered discretion and authority" to
 24 change the settlement position of a party. Pitman v. Brinker Int'l, Inc., 216 F.R.D. 481,
 485-86 (D. Ariz. 2003). The purpose of requiring a person with unlimited settlement
 authority to attend the conference includes that the person's view of the case may be altered
 during the face to face conference. Id. at 486. A limited or a sum certain of authority is
 not adequate. Nick v. Morgan's Foods, Inc., 270 F.3d 590 (8th Cir. 2001).

1 or parties will be available by telephone during the conference. Failure to attend the
2 conference or participate in good faith or obtain proper excuse will be considered grounds
3 for sanctions. Counsel seeking to reschedule a Settlement Conference must first confer
4 with opposing counsel. The Court will consider formal, written *ex parte* requests to
5 continue a Settlement Conference when extraordinary circumstances exist that make a
6 continuance appropriate. In and of itself, having to travel a long distance to appear at the
7 Settlement Conference is not an extraordinary circumstance.

8 Counsel for a government entity may be excused from this requirement so long as
9 the government attorney who attends the Settlement Conference (1) has primary
10 responsibility for handling the case; and (2) may negotiate settlement offers which the
11 attorney is willing to recommend to the government official who has ultimate settlement
12 authority.

13 **IT IS SO ORDERED.**

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15 Dated: January 27, 2016

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17 Hon. William V. Gallo
18 United States Magistrate Judge
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